

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/079 331  
Filing Date: 02/20/2002  
Inventor: Dieter Girlich  
Title: Method and Device for Producing Reticular Structures  
Art Unit: 1725  
Examiner: Kerns, Kevin P.  
Attorney Docket No.: 02013

Confirm. No.: 7963

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APR 30 2004

OFFICE OF PETITIONS

To: Office of Petitions  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Request for Withdrawal from Issue under 37 C.F.R. § 1.313

Petition to Correct Priority Claim under 37 C.F.R. § 1.78

Dear Sir:

The above-cited application was unintentionally filed with form PTO/SB/05 (Utility Transmittal Sheet), under 35 U.S.C. § 111(a) when it should have been filed with form PTO 1390 under 35 U.S.C. § 371 as a PCT National Phase application, claiming priority from the previously filed original application DE 199 39 155.6, filed on August 20, 1999, and PCT application PCT/DE00/02597, filed on August 4, 2000.

A claim for benefit of priority under 35 U.S.C. § 119 from the previously filed German and PCT applications was stated in the first paragraph of a Preliminary Amendment that was filed with the above-cited application. The claims of priority were

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01 FC:1460	130.00 DA
02 FC:1460	580.00 DA
03 FC:1454	1330.00 DA

also stated on the Application Data Sheet that was filed with the U.S. application, although without reference to U.S. code.

The Application Publication US 2002/0088598 A1 indicated claims of priority from the German and PCT applications in the field (30) Foreign Application Priority Data.

A Notice of Allowance was issued for the above-cited application on 09/17/03 and the issue fee paid on 12/11/03.

A Supplemental Notice of Allowance was issued on April 13, 2004, stating that filing dates of the priority documents DE 199 39 155.6 (08/20/1999) and PCT/DE00/02597 (08/04/2000) exceed the 12 month filing limit and that the priority documents do not meet the requirements of 35 U.S.C. § 119(a)-(d) or (f).

Applicants submit that the claim for benefit of priority from the German application DE 199 39 155.6 (08/20/1999) under 35 U.S.C. § 119 is a proper claim for priority under 37 C.F.R. § 1.55.

Applicants further submit that the claim for benefit of priority from the PCT application PCT/DE00/02597 (08/04/2000) was improperly stated.

Applicants state that the entire delay in claiming benefit of priority of the PCT application PCT/DE00/02597 (08/04/2000) under 35 U.S.C. § 120, from June 20, 2002, to the present date, was unintentional and Applicants now request that the priority statement be corrected to claim benefit of priority from the PCT application under 35

U.S.C. § 120 in accordance with 37 C.F.R. § 1.78.

The Commissioner for Patents is herewith authorized to deduct the surcharge of \$1330 as set forth in 37 C.F.R. § 1.17(t) from the deposit account of the undersigned. A fee transmittal sheet is enclosed herewith.

**Applicant requests that application 10/079,331 be withdrawn from issuance and that the statement of priority be corrected.** If any additional fee is required, in addition to the \$1330 fee mentioned above, it should be deducted from the deposit account of the undersigned.

A Request for Continued Examination (RCE) and a Supplemental ADS are filed concurrently with this petition, along with the appropriate filing fee for the RCE.

Respectfully submitted,



Date: April 29, 2004

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